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**Response by American Civil Constructors West Coast, Inc. ("Respondent") to EPA's Supplemental CERCLA Section 104(e) Information Request dated November 30, 2009, regarding the Lower Duwamish Waterway Superfund Site**

**Response Date: January 29, 2010**

**A. General Introduction to Response:**

American Civil Constructors West Coast, Inc. ("Respondent") provides this response to EPA's supplemental CERCLA 104(e) information request dated November 30, 2009 (the "Supplemental Information Request"), seeking information regarding the Lower Duwamish Waterway Superfund Site and the addresses/properties/facilities identified by EPA as 700, 620, and 582 South Riverside Drive, Seattle, Washington 98101 (please note that Respondent lacks information to verify the accuracy of the King County Tax Parcels' numbers identified by EPA—i.e., 7327905350, 7327905725, 7327905760, 7327906645, 7327906755). Consistent with the Supplemental Information Request, this response refers to the Lower Duwamish Waterway Superfund Site as the "LDW Superfund Site." The pertinent properties/facilities identified by EPA are referred to by their respective street addresses in this response.

For information provided previously to EPA by Respondent, see the 104(e) response dated July 3, 2008 ("Respondent's July 3, 2008 Response to EPA's First Information Request").

***EPA should conclude that Respondent is not a "potentially responsible party" ("PRP") for the LDW Superfund Site based upon the information provided in Respondent's July 3, 2008 Response to EPA's First Information Request, the information summarized below, and other information available to EPA from the LDW Superfund Site investigation. There is a complete lack of any evidence that Respondent's limited activities, occurring only since June of 2002 (at 700 South Riverside Drive and 620 South Riverside Drive), and only between July 2, 2006 and June of 2008 (at 582 South Riverside Drive), contributed any hazardous substances to the LDW Superfund Site. EPA should not rely upon mere speculation to add Respondent to the list of potentially responsible parties ("PRPs")—there is absolutely no basis for asserting that Respondent is liable, or potentially liable, under CERCLA for any environmental conditions at the LDW Superfund Site.***

**B. Clarification—Information Provided in Respondent's Response to EPA's Supplemental Information Request:**

Supplemental Information Requests #1(a), #1(c) and #2(e).

*Please note that consistent with discussions initiated by Respondent's counsel with EPA, Respondent has limited its responses to EPA's 104(e) information requests as follows. Previously, in responding to EPA's First Information Request #2(e) (seeking "all*

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documents pertaining to sale, transfer, delivery, disposal, of any hazardous substances, scrap materials, and/or recyclable materials to [the properties identified above]”), Respondent produced on July 3, 2008, examples of the documentation that has been generated when Respondent has occasionally transshipped construction and demolition debris through 700 South Riverside Drive (see Attachments 6 and 7 to Respondent’s July 3, 2008 Response to EPA’s First Information Request). Furthermore, in responding to EPA’s First Information Request #2(e), Respondent described the pertinent types of construction and demolition debris, and how such materials have been handled when occasionally transshipped through 700 South Riverside Drive. On July 1, 2008, Respondent’s counsel (Robert F. Bakemeier) discussed this issue with EPA’s Assistant Regional Counsel (Alexander Fidis) and EPA’s Project Manager for the Lower Duwamish Waterway Superfund Site (Claire Hong), and agreed to the approach to #2(e) that was utilized in Respondent’s July 3, 2008 Response to EPA’s First Information Request.

This topic was revisited by EPA’s Supplemental Information Request #1(c) (seeking “detailed information and supporting documentation regarding storage and disposal of wastes and materials at the Site” and “[s]pecifically provide all documentation regarding any waste, product, or materials that contain CERCLA hazardous substances”). This topic also was revisited by EPA’s Supplemental Information Request #2(e) (seeking “detailed historical and current information and all documentation regarding the storage and disposal of timber pilings containing creosote”). On December 14, 2009, Respondent’s counsel (Robert F. Bakemeier) and EPA’s Assistant Regional Counsel (Alexander Fidis) discussed this topic and Supplemental Information Requests #1(c) and #2(e) in a teleconference. Mr. Fidis indicated that the Supplemental Information Requests had been prepared by a contractor to EPA rather than by EPA personnel, and acknowledged that #1(c) and #2(e) needed clarification, interpretation, and narrowing. Mr. Fidis indicated that, in his view, the second sentence of #1(c) should be interpreted to supersede the first. That is, Respondent need not provide “detailed information and supporting documentation regarding storage and disposal of wastes and materials at the Site.” [Note that, in Respondent’s July 3, 2008 Response to EPA’s First Information Request (#1(g) and #2(e)), Respondent described in some detail its handling of wastes, construction and demolition debris, and other materials at 700 South Riverside Drive.] In the December 14, 2009, teleconference, Mr. Bakemeier and Mr. Fidis further discussed Supplemental Information Requests #1(c) and #2(e), and Mr. Bakemeier explained that Respondent understood that documentation of construction and demolition debris occasionally transshipped through 700 South Riverside Drive (including debris that may have contained CERCLA hazardous substances, if any, and including timber pilings containing creosote) might be included in bills of lading that often do not specifically describe the pertinent waste materials or their constituents. [Note that examples of such bills of lading and related documents were produced by Respondent in Attachment 6 to Respondent’s July 3, 2008 Response to EPA’s First Information Request.] Mr. Bakemeier further explained that Respondent understood a review of such bills of lading would involve Respondent’s speculation as to the nature and composition of specific construction and demolition debris, as well as Respondent’s speculation as to whether particular construction and demolition debris would have been shipped directly

from the construction site to a disposal facility (i.e., not through 700 South Riverside Drive--as frequently has occurred) or would have been transshipped through 700 South Riverside Drive to a disposal facility (as occasionally has occurred). In addition, Mr. Bakemeier indicated that Respondent understood the currently available bills of lading and related documents to comprise a significant volume of paper. Given those circumstances, Mr. Fidis indicated that, in his view, it would be sufficient for Respondent to respond to Supplemental Information Requests #1(c) and #2(e) by generally describing the types and quantities of materials containing hazardous substances located at 700 South Riverside Drive, and to generally describe the events involving the transshipment through 700 South Riverside Drive of construction and demolition debris known to contain hazardous substances, including timber pilings containing creosote. Respondent has prepared this response accordingly.

In addition, in the December 14, 2009 teleconference, Mr. Bakemeier inquired of Mr. Fidis regarding the intended scope of Supplemental Information Request #1(a) (seeking "additional information including a copy of, and all documents regarding, the asset purchase agreement and any other agreements between [Respondent] or any related entities and Harald L. Hurlen and/or Hurlen Construction") (emphasis provided). Mr. Fidis indicated that, in his view, the production of copies of the asset purchase agreement and other agreements described by #1(a) (if any) would be sufficiently responsive to Supplemental Information Request #1(a), and that Respondent need not produce "all documents regarding" such agreements. Respondent has prepared this response accordingly.

In the December 14, 2009, teleconference, Mr. Fidis indicated that he would confirm his views regarding Supplemental Information Requests #1(a), #1(c), and #2(e) with EPA's Project Manager for the LDW Superfund Site (Claire Hong), and alert Mr. Bakemeier if EPA were to reconsider the views he had expressed regarding these matters. Having heard nothing further from EPA since December 14, 2009, regarding these matters, Respondent has responded to Supplemental Information Requests #1(a), #1(c), and #2(e), below, as indicated by Mr. Fidis on December 14, 2009.

#### Reservation of Rights and Objections.

In any event, while Respondent has responded to the Supplemental Information Requests as clarified with EPA (as described above), Respondent must reserve its rights to object to the text of Supplemental Information Requests #1(a), #1(c), and #2(e), as originally drafted. The review, duplication, and production of all documents sought by the original text of Supplemental Information Requests #1(a), #1(c), and #2(e) (and sought previously, in part, by the text of EPA's First Information Request # 2(e)) would involve a very significant burden and expense to Respondent. Respondent believes that such efforts would not yield meaningful information. Accordingly, Respondent objects to Supplemental Information Requests #1(a), #1(c) and #2(e) as unduly burdensome, overbroad, and unreasonable. Without waiver of those objections, Respondent has produced information and documents in its responses to EPA's First and Supplemental Information Requests that Respondent believes are consistent with its counsel's

*discussions with EPA. If EPA disagrees, or seeks additional information, Respondent is certainly willing to discuss the matter with EPA further.*

*Respondent has sought out and summarized/produced in this response information and documents within Respondent's possession, custody and control, and from Respondent's corporate "parent" American Civil Constructors, Inc. Respondent understands that EPA has issued CERCLA 104(e) information requests for the LDW Superfund Site to other individuals and entities that own, or have previously been associated with, the properties located at 700 South Riverside Drive, 620 South Riverside Drive, and/or 582 South Riverside Drive, including Harald Hurlen and Hurlen Construction Company.*

*Respondent has not sought out information from those persons and entities, or others. Respondent cannot engage in speculation as to what other information or records might be "available" to Respondent from sources not within Respondent's possession, custody or control, and thus Respondent objects to the instructions provided with EPA's Supplemental Information Request to the extent that they instruct Respondent to do so.*

*Respondent submits this response while reserving all rights and defenses, without waiver of any arguments or claims it may assert, and without admitting any responsibility, fault or liability pertinent to Respondent or any other party. Furthermore, Respondent submits this response while reserving the confidentiality of all communications subject to attorney/client privilege, work product protection, and/or any other protection from disclosure, and this response should not be construed in any way as a waiver of Respondent's claims to such confidentiality.*

The questions set forth in EPA's Supplemental Information Request to Respondent are reproduced below, followed by Respondent's response to each question. Respondent reserves the right to supplement this response, as may be appropriate. The attachments provided with this response begin with Attachment 9 because Attachments 1 through 8 were provided with Respondent's July 3, 2008 Response to EPA's First Information Request.

**1. Respondent Information**

- a. Provide the full legal name and mailing address of the Respondent.

Response:

American Civil Constructors West Coast, Inc.  
700 South Riverside Drive  
Seattle, Washington 98018

- b. For each person answering these questions on behalf of Respondent provide:

i. full name;

ii. title;

- iii. business address;
- iv. business telephone number and FAX machine number.

Response:

Dave Lemesany, assisted by counsel  
Vice President and General Manager  
American Civil Constructors West Coast, Inc.  
700 South Riverside Drive  
Seattle, Washington 98018  
Telephone: 206-764-8112  
Fax: 206-762-1854

1. **Site Activities and Interests**

- a. Provide additional information including a copy of, and all documents regarding, the asset purchase agreement and any other agreements or contracts between American Civil Constructors West Coast, Inc. or any related entities and Harald L. Hurlen and/or Hurlen Construction.

Response:

*Please note that, consistent with the clarification provided above and Respondent's counsel's communications with EPA regarding this request (see pages 1-4, above), Respondent has limited its response to this request to providing copies of the following documents and information.*

Respondent entered into an "Asset Purchase Agreement" dated as of June 1, 2002 (copy provided with this response as **Attachment 9**) among Respondent (as purchaser), Hurlen Construction Company (as seller), and the three shareholders of Hurlen Construction Company (Scott McKellar, Wil Clark, and Eric Reichelt).

Respondent entered into a "Consent to Assignment and Third Amendment to Lease and Right of First Refusal" effective as of June 7, 2002 (copy previously provided with Respondent's July 3, 2008, Response to EPA's First Information Request in Attachment 1) between Harald L. Hurlen (as lessor) and Respondent (as lessee) pertaining to the real properties at 700 South Riverside Drive and at 620 South Riverside Drive.

Respondent entered into a "Fourth Amendment to Lease and Right of First Refusal" effective as of December 31, 2005 (copy previously provided with Respondent's July 3, 2008, Response to EPA's First Information Request in Attachment 1) between Harald L. Hurlen (as lessor) and Respondent (as lessee) pertaining to the real properties at 700 South Riverside Drive and at 620 South Riverside Drive.

As previously indicated in Respondent's July 3, 2008, Response to EPA's First Information Request (#1(d) and #1(f)):

Respondent understands that Respondent leased the real property at 582 South Riverside Drive for approximately two years from July 2, 2006 through June of 2008, pursuant to an oral month-to-month lease agreement between Respondent and Cascade Barge and Equipment, LLC, and used that location as follows. 582 South Riverside Drive (a fenced lot without structures) was used for upland storage of construction materials and equipment necessary to accomplish construction projects elsewhere (not within the LDW Superfund Site or within the surrounding area described below in supplemental 104(e) request #1(b)). Such construction materials and equipment were delivered to and removed from 582 South Riverside Drive by trucks and via the streets adjacent to that property (i.e., not via the Lower Duwamish Waterway). Respondent did not utilize any moorage or water-dependent facilities at 582 South Riverside Drive. Such limited use of 582 South Riverside Drive by Respondent was terminated in June of 2008.

b. Describe more specifically where your construction projects occur within the LDW Superfund Site and for whom they are performed, providing detailed information on any construction projects carried out within the Lower Duwamish Waterway and the surrounding area bounded by SW Spokane Street on the north, S 112<sup>th</sup> Street on the south, and a distance one half (1/2) mile east and one half (1/2) mile west of the respective banks of the Waterway. Your response indicated that construction projects take place elsewhere and not at the Site.

Response:

None of Respondent's construction projects have occurred within the LDW Superfund Site or within the surrounding area described in #1(b) of EPA's Supplemental Information Request.

c. Provide detailed information and supporting documentation regarding storage and disposal of wastes and materials at the Site. Specifically provide all documentation regarding any waste, product, or materials that contain CERCLA hazardous substances.

Response:

*Please note that, consistent with the clarification provided above and Respondent's counsel's communications with EPA about this request (see pages 1-4, above), Respondent has limited its response to this request to generally describing (and producing summary documents regarding) the types and quantities of wastes and materials containing hazardous substances located at 700 South Riverside Drive, and to generally describe the only event involving the transshipment through 700 South Riverside Drive of construction and demolition debris known to contain hazardous substances, other than those events described in the responses to supplemental requests #2(e) and #2(f), below. Such information regarding timber pilings containing creosote is provided in the response to supplemental request #2(e), below. Such information*

*regarding dredged sediments from the Puget Sound Resources Superfund Site is provided in the response to supplemental request #2(f), below.*

Respondent interprets this question to seek information regarding 700 South Riverside Drive and 620 South Riverside Drive. Note that Respondent previously provided pertinent information responsive to this question in its July 3, 2008 Response to EPA's First Information Request (#1(g) and #2(e)).

Note that Respondent understands that use of 582 South Riverside Drive by Respondent for upland storage occurred for approximately two years, was terminated in June of 2008, and did not involve waste disposal at 582 South Riverside Drive (in that all wastes generated by Respondent's activities at 582 South Riverside Drive were collected in containers for appropriate off-site disposal). See Respondent's July 3, 2008 Response to EPA's First Information Request (#1(g)).

#### Wastes.

No waste disposal occurs at 700 South Riverside Drive or 620 South Riverside Drive, other than the disposal of sanitary sewage from the bathroom facilities at 700 South Riverside Drive that has been routed to the municipal sewage system. Other than sanitary sewage, all wastes generated by Respondent's activities occurring at 700 South Riverside Drive and 620 South Riverside Drive are collected in containers for appropriate off-site disposal, as follows. Solid wastes, such as office waste paper, garbage, trash, etc. are placed in containers and dumpsters for regular collection by disposal contractors (Waste Management) and transport to an appropriate off-site landfill(s). Waste oils and antifreeze are placed in above-ground storage containers located under cover at the oil storage room and storage area at 700 South Riverside Drive. Such wastes are regularly collected for off-site recycling by Waste Management.

In a unique one-time project to address surplus, outdated, and waste materials that had been accumulated and stored in containers at 700 South Riverside Drive, Respondent recently (in the fall of 2009) undertook a comprehensive inventory, collection, and off-site disposal of such containerized materials located at 700 South Riverside Drive. Prior to undertaking the project, Respondent obtained from the Washington Department of Ecology a RCRA Site Identification Number (WAD988518239) for a one-time "clean up" effort. Copies of the correspondence with Ecology, and the inventory documents and manifests prepared by Emerald Services, Inc. for Respondent, are provided with this response in **Attachment 10**. Those documents describe the pertinent containerized materials and their quantities. As indicated in those documents, some of the containerized materials evidently contained hazardous substances (and some did not). Those containerized materials included paints (oil based and latex), stains, paint thinner, protective coatings, aerosol cans, oil, antifreeze, coal tar creosote, concrete curing compounds, wax, floor polish, epoxy, aerosol cans, and grease. All of the containerized materials were handled carefully and stored under cover prior to their collection and transport for disposal at appropriate off-site locations by Emerald Services, Inc. Respondent lacks any knowledge or information about any instance in which any such

containerized materials and products have been spilled or released to the LDW Site since Respondent's activities began at 700 South Riverside Drive on June 7, 2002.

#### Materials.

As previously indicated in Respondent's July 3, 2008, Response to EPA's First Information Request (#1(g)), Respondent uses some materials at 700 South Riverside Drive, such as fuels (diesel and gasoline), lubricating oils, grease, hydraulic fluids, transmission fluids, filters, antifreeze, cleaning fluids, paints, etc. An inventory list of such materials was provided with Respondent's July 3, 2008, Response to EPA's First Information Request (in Attachment 2). Products containing hazardous substances, fuels, and oils used by Respondent at 700 South Riverside Drive and 620 South Riverside Drive (or delivered to 700 South Riverside Drive for use elsewhere) are summarized (by specific products and by quantities) in "Quarterly Hazardous Materials Control Reports." These reports also include volumes of waste oils gathered at 700 South Riverside Drive for off-site recycling. Copies of such reports generated from 2002 to June of 2008, were provided with Respondent's July 3, 2008, Response to EPA's First Information Request (in Attachment 3). Copies of such reports generated since June of 2008 are provided with this response in **Attachment 11**. An oil inventory (used and unused) for 700 South Riverside Drive as of March 24, 2009, is provided with this response as **Attachment 12**. Copies of Material Safety Data Sheets for some materials used by Respondent at 700 South Riverside Drive are provided with this response in **Attachment 13**. Respondent has obtained from the City of Seattle Fire Department permits for the storage and use of combustible and flammable liquids in accordance with the Seattle Fire Code. Copies of those permits are provided with this response in **Attachment 14**. Those permits describe the types and amounts of such materials. Respondent lacks any knowledge or information about any instance in which any of the materials and products containing hazardous substances identified in Attachment 10, Attachment 11, Attachment 12, Attachment 13, or Attachment 14 have been spilled or released to the LDW Site since Respondent's activities began at 700 South Riverside Drive on June 7, 2002.

#### Construction and Demolition Debris Occasionally Transshipped Through 700 South Riverside Drive--Generally.

Occasionally during Respondent's operations at 700 South Riverside Drive (i.e., since June 7, 2002), construction and demolition debris generated during projects occurring at other locations (not within the LDW Superfund Site and not within the surrounding area described in #1(b) of EPA's Supplemental Information Request) has temporarily been delivered to 700 South Riverside Drive by barge for transshipment through 700 South Riverside Drive for recycling or disposal elsewhere (not within the LDW Superfund Site and not within the surrounding area described in #1(b) of EPA's Supplemental Information Request). Such construction and demolition debris have included the following: scrap metal, timber pilings, lumber, concrete, and concrete floats with plastic and/or Styrofoam inserts. Respondent understands that such building and construction debris have not been transshipped or stored by Respondent at 620 South Riverside Drive or at 582 South Riverside Drive.



In instances where construction and demolition debris recycled or disposed from Respondent's construction projects is temporarily delivered to 700 South Riverside Drive, such materials arrive by barge, generally in containers unless practical to handle the materials individually (e.g., large items such as timber pilings, concrete materials, etc.). Such materials are not stored or stockpiled at 700 South Riverside Drive. Such containers and materials are offloaded from the barges and transferred to trucks for transportation to off-site locations for proper recycling or disposal, all in compliance with applicable environmental laws. Respondent lacks any knowledge or information about any instance in which any such construction and demolition debris has been spilled or released to the LDW Site since Respondent's activities began at 700 South Riverside Drive on June 7, 2002.

Construction and Demolition Debris Transshipped Through 700 South Riverside Drive—  
One Event Involving Debris Known by Respondent to Include Hazardous Substances  
(Generated by the United States of America from the Puget Sound Naval Shipyard  
Located in Bremerton, Washington).

Respondent lacks knowledge or information of instances in which construction and demolition debris from Respondent's construction projects transshipped through 700 South Riverside Drive were known to have included hazardous substances, except as follows (and except as addressed below in response to Supplemental Information Requests #2(e) and #2(f)).

In 2009, Respondent performed construction work for the United States of America at the Puget Sound Naval Shipyard located in Bremerton, Washington. The project yielded construction and demolition debris that included some concrete materials from pier structures demolished at the shipyard (concrete decking and concrete pilings). Significant amounts of the concrete decking and concrete pilings were transported by other contractors directly from Bremerton to Point Ruston in Tacoma (for reuse/recycling there or elsewhere) or to disposal facilities operated by Rabanco-Regional Disposal Company or Allied Waste. That concrete construction and demolition debris was not transshipped through 700 South Riverside Drive.

In the course of handling some of the concrete construction and demolition debris at Point Ruston in a facility operated by Nuprecon LP, it was determined by sampling and analysis that some of the concrete debris contained arsenic at concentrations that varied depending upon the nature/source of the debris. The concrete decking debris contained higher concentrations of arsenic than the concrete pilings, which were confirmed by sampling to contain trace levels of arsenic that did not require special handling or disposal (5.9 mg/kg, compared to the Model Toxics Control Act regulatory limit of 20 mg/kg)(Method A cleanup level for soil—unrestricted residential land use). A copy of the sampling report pertinent to the concrete debris from the Puget Sound Naval Shipyard project is provided with this response in **Attachment 15**.

Approximately 575 of the concrete pilings (approximately thirty to forty feet in length) were transported from the Puget Sound Naval Shipyard to the yard at 700 South Riverside Drive by barge. Those concrete pilings were carefully off-loaded from the barge in large pieces. Those concrete pilings were not stored or stockpiled at 700 South Riverside Drive—they were located at 700 South Riverside Drive only temporarily—approximately only four or five days at a time before their transport off-site for recycling. Note that in Table 1 of **Attachment 15** (the sampling report), only Sample Number “S6-Piling” with an arsenic sampling result of 5.9 mg/kg is pertinent to those concrete pilings. In the yard at 700 South Riverside Drive, in an area removed from the Lower Duwamish Waterway, the concrete pilings were cut into smaller pieces for loading into trucks that transported all of the pieces of concrete pilings (and related residues collected from the concrete cutting activities) off-site for recycling by Renton Concrete Recyclers LLC. The concrete pilings transshipped through 700 South Riverside Drive were delivered in three installments in July, August, and September of 2009. According to invoices and related manifests: (1) in July (on July 14, 15, 21, 22, 23, and 24), approximately 627 cubic yards of concrete pilings were recycled; (2) in August (on August 18, 19, and 20), approximately 986 cubic yards of concrete pilings were recycled; and (3) in September (on September 16 and 17), approximately 153 cubic yards of concrete pilings were recycled. Shortly after the recycling of the concrete pilings from the Puget Sound Naval Shipyard was completed, the yard at 700 South Riverside Drive (including the area where the cutting of the concrete pilings had been accomplished) was re-graded and re-graveled during the week of September 28, 2009. That project included the removal of some of the existing surface soil and gravel (and all remaining residues from the concrete cutting activities) for recycling at an off-site facility. New base and surface ballast/gravel were installed to provide a better subsurface and working surface in the yard.

In the course of the Puget Sound Naval Shipyard project described above, there was one instance in which one barge load of concrete decking material from the Puget Sound Naval Shipyard was temporarily delivered to, and moored at, 700 South Riverside Drive. The concrete decking material was carefully cut up into smaller pieces and all such material was placed in containers on the barge, while moored at 700 South Riverside Drive for approximately five days. None of the concrete decking material was off-loaded to 700 South Riverside Drive for transshipment. The barge and its load of concrete decking material was removed from the moorage at 700 South Riverside Drive and was transported for proper disposal of the concrete decking material at facilities operated by Rabanco-Regional Disposal or Allied Waste. While that barge load of concrete decking material was present at 700 South Riverside Drive, precautions were taken to ensure that none of the material could escape the barge or be released to the Lower Duwamish Waterway.

Respondent lacks any knowledge or information about any instance in which any such concrete materials (pilings or decking) or related debris from the Puget Sound Naval Shipyard described above were spilled or released to the LDW Site. Respondent believes that, throughout Respondent’s handling of the concrete materials (pilings and decking) and related debris from the Puget Sound Naval Shipyard described above, all such materials were handled carefully, with all such materials being transported out of 700

South Riverside Drive for proper off-site recycling and/or disposal. Furthermore, Respondent believes that no such materials were released to the LDW Site.

d. Provide all information regarding Site stormwater management practices, the slopes of the properties, and the location of any seeps to the Duwamish Waterway. Provide all information on any connection to sewer systems or any other drainage structures. Clearly describe the general stormwater flow at the Site and the method of handling wastewater and stormwater. Provide detailed information and supporting documentation regarding all three properties included in the Site on the following:

- i. Process water, equipment wash water, or any other waste waters;
- ii. The amount and areas of the properties that are paved; and
- iii. Any stormwater, waste water, or other water discharge permits.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive and 620 South Riverside Drive. Note that Respondent understands that use of 582 South Riverside Drive by Respondent for upland storage occurred for only approximately two years and was terminated in June of 2008.

Stormwater management practices.

Respondent utilizes best management practices at 700 South Riverside Drive and 620 South Riverside Drive, as described in the Pollution Prevention and Best Management Practices Plan prepared by SLR International Corporation for Respondent (copy provided with this response as **Attachment 16**).

In Respondent's July 3, 2008 Response to EPA's First Information Request (#2(h)), Respondent indicated as follows:

"Respondent understands that, except for one storm water drain (containing an oil/water separator) located in the yard at 700 South Riverside Drive that discharges to the Lower Duwamish Waterway, the properties have no piping, ditches, catch basins, manholes, treatment/detention or related structures, or outfalls for storm drainage. Roof gutters and downspouts on the buildings at 700 South Riverside Drive drain to the ground surface. Respondent has no plans or maps of site drainage for the properties. Respondent has no stormwater or drainage studies pertinent to the properties."

However, Respondent has since searched for, but failed to find, the one storm water drain that Respondent understood to be located in the yard at 700 South Riverside Drive. There is a nearby catch basin (containing an oil/water separator) that Respondent understands is located off of the 700 South Riverside Drive property and maintained by the City of Seattle, on an adjacent property.

Slopes of the properties.

As indicated in the Pollution Prevention and Best Management Practices Plan prepared by SLR International Corporation for Respondent (copy provided with this response as **Attachment 16**), the properties are generally flat and slope away from the Lower Duwamish Waterway toward the adjacent streets (except for the shorelines immediately adjacent to the Lower Duwamish Waterway).

Seeps.

Respondent lacks knowledge or information about seeps, if any, to the Lower Duwamish Waterway.

General stormwater flow.

As indicated in the Pollution Prevention and Best Management Practices Plan prepared by SLR International Corporation for Respondent (copy provided with this response as **Attachment 16**), the general stormwater flow at the properties is away from the Lower Duwamish Waterway toward the adjacent street, South Riverside Drive, where stormwater is conveyed to storm drains managed and controlled by the City of Seattle.

Method of handling wastewater and stormwater.

The bathroom facilities at 700 South Riverside Drive that yield sanitary sewage are connected to the municipal sewage system. As indicated in the Pollution Prevention and Best Management Practices Plan prepared by SLR International Corporation for Respondent (copy provided with this response as **Attachment 16**): "Neither property (620 and 700 South Riverside Drive) has any onsite piping, ditches, catch basins, manholes, treatment/detention ponds or related structures, or outfalls to manage stormwater drainage. Roof gutters and downspouts on the buildings at the 700 South Riverside Drive property discharge to the ground surface. Both properties are graded to allow stormwater to flow towards South Riverside Drive (away from the Duwamish River). The storm drains in South Riverside Drive are managed and controlled by the City of Seattle. [Respondent] does not allow any direct stormwater or effluent to discharge to the Duwamish River; however, stormwater contacting the shoreline facilities and wood docks at both properties will likely discharge directly to the Duwamish River."

Process water.

Respondent's activities at 700 South Riverside Drive and 620 South Riverside Drive yield no process water. Occasionally, Respondent will spray potable water supplied from the municipal water system on the gravel portions of the yard located at 700 South Riverside Drive to minimize dust dispersion.

Equipment wash water.

Respondent's activities at 700 South Riverside Drive and 620 South Riverside Drive yield no equipment wash water.

Other waste waters.

Other than sanitary sewage, Respondent's activities at 700 South Riverside Drive and 620 South Riverside Drive generally yield no other waste waters. In what Respondent understands to be a unique event, some rainwater collected in a concrete containment basin in the covered oil storage area located at 700 South Riverside Drive. That rainwater was vacuum pumped from the basin by Emerald Services, Inc. and removed from 700 South Riverside Drive for proper off-site disposal by Emerald Services, Inc. Documentation of these activities is provided with this response in **Attachment 10**.

Pavement.

Relatively small areas of 700 South Riverside Drive are paved—those areas are immediately adjacent to the buildings. See locations of buildings depicted on the Site Plan for 700 South Riverside Drive included as Appendix A in the Pollution Prevention and Best Management Practices Plan prepared by SLR International Corporation for Respondent (copy provided with this response as **Attachment 16**). 620 South Riverside Drive is not paved.

Stormwater, Waste Water, or Other Water Discharge Permits.

There are no stormwater, waste water, or other water discharge permits pertinent to Respondent's use of 700 South Riverside Drive and 620 South Riverside Drive.

e. Provide detailed historical and current information and all documentation regarding the storage and disposal of timber pilings containing creosote. Include the amount of stored timber pilings that contain creosote, the length of time stored at the Site, under what conditions, and location of storage at the Site. According to your initial response, you are involved in handling, storing and disposing of timber pilings treated with creosote. Provide any additional information and documentation regarding creosote treated wood and any other materials that require special disposal.

Response:

*Please note that, consistent with the clarification provided above and Respondent's counsel's communications with EPA about this request (see pages 1-4, above), Respondent has limited its response to this request to generally describing the known events involving the transshipment of timber pilings containing creosote through the yard at 700 South Riverside Drive.*

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

As indicated in Respondent's July 3, 2008 Response to EPA's First Information Request, since June 7, 2002, Respondent occasionally has been involved in projects in which construction and demolition debris generated during activities occurring at other locations (not at 700 South Riverside Drive, within the LDW Superfund Site, or within the surrounding area described above in supplemental request #1(b)) has been temporarily delivered to 700 South Riverside Drive for recycling or disposal elsewhere (not at 700 South Riverside Drive, within the LDW Superfund Site, or within the surrounding area described above in supplemental request #1(b)). Respondent understands that some such projects involving timber pilings containing creosote have occurred since Respondent began its activities at 700 South Riverside Drive on June 7, 2002, but Respondent lacks knowledge or information about those specific projects except as follows.

In 2009, Respondent performed construction work for the United States of America at the Puget Sound Naval Shipyard located in Bremerton, Washington, as described above in response to supplemental request #1(c). The project yielded construction and demolition debris that included timber pilings containing creosote that were transshipped through 700 South Riverside Drive for disposal at the Roosevelt Landfill operated by Rabanco-Regional Disposal Company in Roosevelt, Washington.

Approximately 1,218 timber pilings containing creosote (each approximately fifty to sixty feet in length) were transported from the Puget Sound Naval Shipyard to the yard at 700 South Riverside Drive by barge. Those timber pilings originated from the piers demolished at the shipyard. Those timber pilings were carefully off-loaded whole from the barge and were temporarily located at 700 South Riverside Drive. They were not stored or stockpiled—they were located at 700 South Riverside Drive only as long as it took to transport them out of the yard (generally no longer than a day or two). In the yard at 700 South Riverside Drive, in an area removed from the Lower Duwamish Waterway, the timber pilings were cut into smaller pieces for loading into containers containing all of the pieces of timber pilings (and related residues collected from the cutting activities) that were trucked off-site for transfer to railcars that transported all of the containers/materials to the Roosevelt Landfill operated by Rabanco-Regional Disposal in Roosevelt, Washington. The timber pilings containing creosote transshipped through 700 South Riverside Drive were delivered in three installments in January, April, and May of 2009. According to invoices and related manifests: (1) in January (on January 10, 12, 13, and 14), approximately 119.64 tons of timber pilings were transferred to the Roosevelt Landfill; (2) in April (on April 30), approximately 118.87 tons of timber pilings were transferred to the Roosevelt Landfill; and (3) in May (between May 2 and 19), approximately 2,224.58 tons of timber pilings were transferred to the Roosevelt Landfill. Shortly after the transshipment of the timber pilings from the Puget Sound Naval Shipyard was completed, the yard at 700 South Riverside Drive was re-graded and re-graveled (including the area where the cutting of the timber pilings had been accomplished). That project included the removal of some of the existing surface soil and gravel for disposal with the timber pilings (and all remaining residues from the

timber piling cutting activities). New gravel was installed to provide a better working surface in the yard. As described above in response to supplemental information request #1(e), the yard at 700 South Riverside Drive was re-graded and re-graveled again subsequently in late September of 2009.

Respondent lacks any knowledge or information about any instance in which any such timber pilings (or their residues) have been spilled or released to the LDW Site since Respondent's activities began at 700 South Riverside Drive on June 7, 2002. Respondent believes that, throughout the transshipment of the timber pilings from the Puget Sound Naval Shipyard described above, all such timber pilings described above (and their residues) were handled carefully, with all such materials being transported out of 700 South Riverside Drive for proper off-site disposal. Furthermore, Respondent believes that no such timber pilings (or their residues) were released to the LDW Site.

f. Confirm whether dredged materials are or have been stored at the Site. If dredged materials are or have been stored at the Site, indicate the length of time, the location, and under what conditions the dredged materials are or have been stored.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

Respondent lacks any knowledge or information regarding the presence or storage of dredged materials at 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive, other than the following information previously provided in Respondent's July 3, 2008 104(e) Response (#1(g)):

"In one project accomplished in 2003, dredged sediments from the Puget Sound Resources Superfund Site, Marine Sediments Unit, Remedial Action were delivered by barge to 700 South Riverside Drive and were transshipped through 700 South Riverside Drive for disposal at the Rabanco Roosevelt Regional Landfill. The project was accomplished pursuant to a Remedial Action Management Plan for Contract Number DACW67-03-C-0012, approved by EPA and the United States Army Corps of Engineers, and the activities were accomplished under on-site observation and supervision by Corps of Engineers personnel, in coordination with EPA. Respondent is aware of no instance in which any such dredged materials were spilled into the Lower Duwamish Waterway during that project. Pursuant to the applicable Remediation Action Management Plan, and pursuant to EPA and Corps of Engineers oversight, protective measures were implemented and dredged sediments were handled to prevent spillage and/or releases of the dredged sediments during transfer from barges to sealed trucks and trailers at 700 South Riverside Drive."

g. Indicate whether any floor drains exist inside buildings or in any liquid storage areas at the Site.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

Respondent believes that there are no floor drains inside buildings or in any liquid storage areas at 700 South Riverside Drive. There are no buildings or liquid storage areas located at 620 South Riverside Drive. Respondent lacks knowledge or information about buildings or liquid storage areas, if any, located at 582 South Riverside Drive.

h. Provide any information regarding Underground Storage Tank (UST) removals at the Site during or prior to your involvement at the Site, and any information on USTs remaining at the Site.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

Respondent lacks any knowledge or information about Underground Storage Tank ("UST") removals at any time, if any, at 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive, except as follows. Respondent has a copy of correspondence dated November 3, 1998, from Scott McKellar of Hurlen Construction Company to Hal Hurlen that states: "As you are aware, Hurlen Construction Company recently received an EPA letter requesting documentation that final soils testing had been completed after you had underground tanks removed from the 700 South Riverside Drive location (several years ago—prior to our purchase of H.C.C.). As discussed, you told us that the yard had been tested and is free of hazardous materials. Further, you would find documentation and respond to the EPA's request. We would appreciate a copy of your correspondence in case the EPA attempts to contact us in the future." A copy of that correspondence is included with this response in **Attachment 17**. This correspondence predated Respondent's leasing of 700 South Riverside Drive beginning as of June 7, 2002. In addition, see response to supplemental request #2(k), below, regarding information reported as of April 28, 2002, regarding a UST removal at 700 South Riverside Drive.

Respondent lacks any knowledge or information about USTs, if any, located currently at 700 South Riverside Drive, 620 South Riverside Drive, or 582 South Riverside Drive, except as follows. According to the Spill Prevention, Control and Countermeasure (SPCC) Plan prepared by SLR International Corporation for Respondent (at page 13)(copy provided with this response as **Attachment 18**): "There are no USTs at [Respondent's facilities located at 700 South Riverside Drive and 620 South Riverside Drive]."

i. Describe and provide information and documentation regarding any current or historic on-site maintenance and repair activities of vehicles and marine vessels,



including sandblasting, overwater activities, or cleaning of barges on or adjacent to the Site.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

700 South Riverside Drive and 620 South Riverside Drive.

Respondent lacks any knowledge or information about such activities, if any, predating Respondent's leasing of the real properties at 700 South Riverside Drive and 620 South Riverside Drive beginning as of June 7, 2002 (except as set forth in the response to supplemental request #2(k), below, regarding information reported as of April 28, 2002).

Since Respondent's leasing of 700 South Riverside Drive and 620 South Riverside Drive (from June 7, 2002 to the present), Respondent understands that "maintenance and repair activities of vehicles and marine vessels" have been very limited to the following activities. All maintenance and repair of Respondent's vehicles are accomplished by contractors at off-site locations operated by those contractors (i.e., not at 700 South Riverside Drive or at 620 South Riverside Drive). All maintenance and repair of Respondent's marine vessels and equipment are accomplished by contractors at off-site locations operated by those contractors (i.e., not at 700 South Riverside Drive or at 620 South Riverside Drive), except for: (a) occasional minor small engine repairs (e.g., spark plug changes and tune-ups of outboard motors)(in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to supplemental request #1(c)); (b) welding and cutting of metal portions of barges and barge-mounted equipment (in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to supplemental request #1(c)); and (c) sweeping of solid materials on barges (in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to supplemental request #1(c)). Frequently, such activities occur at the job site (or elsewhere) rather than at 700 South Riverside Drive or at 620 South Riverside Drive. In circumstances where Respondent rents equipment, such equipment is returned to its owners for maintenance or repair by the owners at their facilities (i.e., not at 700 South Riverside Drive or at 620 South Riverside Drive). Respondent knows of no sandblasting, no other overwater maintenance and repair activities, and no other cleaning of barges that has occurred since June 7, 2002, at 700 South Riverside Drive or 620 South Riverside Drive.

Respondent lacks any knowledge or information about any instance in which any of the very limited maintenance and repair activities described above have involved any spills or releases to the LDW Site since Respondent's activities began at 700 South Riverside Drive on June 7, 2002.

582 South Riverside Drive.

As previously indicated in Respondent's July 3, 2008, Response to EPA's First Information Request (#1(d) and #1(f))(and repeated above in response to Supplemental Information Request #1(a)): Respondent understands that Respondent leased the real property at 582 South Riverside Drive for approximately two years from July 2, 2006, to June of 2008, pursuant to an oral month-to-month lease agreement between Respondent and Cascade Barge and Equipment, LLC, and used that property as follows. Respondent used 582 South Riverside Drive (a fenced lot without structures) for upland storage of construction materials and equipment necessary to accomplish construction projects elsewhere (not within the LDW Superfund Site or within the surrounding area described above in Supplemental Information Request #1(b)). Such construction materials and equipment were delivered to and removed from 582 South Riverside Drive by trucks and via the streets adjacent to that property (i.e., not via the Lower Duwamish Waterway). Respondent did not utilize any moorage or water-dependent facilities at 582 South Riverside Drive. Such limited use of 582 South Riverside Drive by Respondent was terminated in June of 2008, and did not include any maintenance or repair activities involving vehicles or marine vessels.

- j. Provide a description of all marine equipment involved in construction operations, specific maintenance activities carried out on the equipment, and the location of these activities.

Response:

An inventory of Respondent's marine equipment is provided with this response as **Attachment 19**. As indicated in response to Supplemental Information Request #2(i), above, all maintenance and repair of Respondent's marine vessels and equipment are accomplished by contractors at off-site locations operated by those contractors (i.e., not at 700 South Riverside Drive or at 620 South Riverside Drive)(and not within the LDW Site), except for: (a) occasional minor small engine repairs (e.g., spark plug changes and tune-ups of outboard motors)(in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to Supplemental Information Request #1(c)); (b) welding and cutting of metal portions of barges and barge-mounted equipment (in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to Supplemental Information Request #1(c)); and (c) sweeping of solid materials on barges (in which circumstances all waste materials are collected and containerized for proper disposal as described above in response to Supplemental Information Request #1(c)). Frequently, such activities occur at the job site (or elsewhere) rather than at 700 South Riverside Drive or at 620 South Riverside Drive. In circumstances where Respondent rents equipment, such equipment is returned to its owners for maintenance or repair by the owners at their facilities (i.e., not at 700 South Riverside Drive or at 620 South Riverside Drive)(and not within the LDW Site).

k. Provide all documents not previously provided in response to the initial Request for Information, or otherwise provided in response to this Supplemental Information Request, regarding environmental conditions of the Site. Environmental conditions of the Site includes information related to soil, sediment, water (ground and surface), and air quality, such as, but not limited to:

- i. Any spill, leak, release, or discharge of a hazardous substance, waste, or materials at or near the Site;
- ii. Occurrences of violations, citations, deficiencies, and/or accidents concerning the Site;
- iii. Remediation or removal of contaminated soils, sediments, or other media at the Site; and
- iv. Investigations, inspections, sampling, and reports generated by Respondent and/or others regarding the Site and surrounding area.

Response:

Respondent interprets this question to seek information regarding 700 South Riverside Drive, 620 South Riverside Drive, and 582 South Riverside Drive.

Respondent believes it has provided all such non-privileged documents within Respondent's possession, custody or control with Respondent's July 3, 2008 Response to EPA's First Information Request and with this response to EPA's Supplemental Information Request, except as follows and are provided with this response:

Pollution Prevention and Best Management Practices Plan and Spill Prevention, Control and Countermeasure (SPCC) Plan.

Respondent, with the assistance of counsel and SLR International Corporation, has implemented the Pollution Prevention and Best Management Practices Plan described above (copy provided with this response as **Attachment 16**), and the Spill Prevention, Control and Countermeasure (SPCC) Plan described above (copy provided with this response as **Attachment 18**). Other than the two plans provided with this response, all communications between or among Respondent, its counsel, and SLR International Corporation regarding the preparation of those plans and related matters are confidential, attorney-client privileged, and/or reflect attorney work product. Accordingly, Respondent has not provided documents reflecting such communications. Respondent submits this response while reserving the confidentiality of all communications subject to attorney/client privilege, work product protection, and/or any other protection from disclosure, and this response should not be construed in any way as a waiver of Respondent's claims to such confidentiality. In any event, Respondent believes that Respondent's July 3, 2008 Response to EPA's First Information Request and this response to EPA's Supplemental Information Request provide all factual information

responsive to EPA's 104(e) requests that is contained in such confidential and privileged materials.

Correspondence Between Respondent and Lessor (Harald L. Hurlen) Regarding Hazardous Material Control Reports, Pilings and Concrete Deck Material Generated by the United States of America from the Puget Sound Naval Shipyard, and Surface Soil/Gravel Re-Grade and Replacement at 700 South Riverside Drive.

Copies of four letters exchanged by Respondent and the lessor of 700 South Riverside Drive (Harald L. Hurlen) in the summer and fall of 2009 are provided with this response as **Attachment 20**. In particular, that correspondence addressed Mr. Hurlen's concerns about the summer 2009 transshipment through 700 South Riverside Drive of concrete materials generated by the United States of America from the Puget Sound Naval Shipyard (described in detail above in response to supplemental request #1(c)). Mr. Hurlen had been misinformed via communications that he indicated were "rumors along the waterfront" about the circumstances of those transshipments, the contents of those materials, and the handling of those materials at 700 South Riverside Drive. His letters dated August 14, 2009, and September 17, 2009 (copies included in **Attachment 20**), reflected erroneous information about those circumstances. As clarified by Respondent in a meeting and a site visit at 700 South Riverside Drive with Mr. Hurlen on September 24, 2009, as confirmed in Respondent's letter dated October 1, 2009 (copy included in **Attachment 20**), and as described in detail above in response to supplement request #1(c), the handling and transshipment of the concrete materials from the Puget Sound Naval Shipyard did not contribute any waste materials (or arsenic) to the yard at 700 South Riverside Drive (or to the Lower Duwamish Waterway).

The letter dated October 1, 2009 (copy included in **Attachment 20**), also addressed Respondent's re-grading and re-graveling of the yard at 700 South Riverside Drive (which occurred during the week of September 28, 2009). As described in detail in response to supplemental request #1(c), that project included the removal of some of the existing surface soil and gravel for recycling at an off-site facility. New base and surface ballast/gravel were installed to provide a better subsurface and working surface in the yard. Copies of other correspondence, invoices, and photographs pertinent to that project are included in **Attachment 21**). As described in detail in response to supplemental request #1(e), Respondent had previously re-graded and re-graveled the yard at 700 South Riverside Drive in approximately May of 2009. Respondent understands that such re-grading and re-graveling of the yard at 700 South Riverside Drive has occurred previously since Respondent began leasing that property as of June 7, 2002. However, Respondent lacks specific knowledge or information about such events.

Preparation of a "Pollution Plan" for Hurlen Construction Company.

Respondent has located a copy of correspondence dated May 21, 2002, from Scott McKellar of Hurlen Construction Company to Tim Coster, Wil Clark, and Herman Koempel regarding the preparation of an enclosed "Pollution Plan" for Hurlen Construction Company and 700 South Riverside Drive. A copy of that correspondence

and enclosure is provided with this response as **Attachment 22**. This correspondence predated Respondent's leasing of 700 South Riverside Drive beginning as of June 7, 2002.

Trimming of Poplar Trees at 700 South Riverside Drive by Hurlen Construction Company.

Respondent has located a copy of correspondence dated January 15, 2002, from Scott McKellar of Hurlen Construction Company to Hal Hurlen regarding plans to trim poplar trees located at 700 South Riverside Drive. A copy of that correspondence is provided with this response as **Attachment 23**. This correspondence predated Respondent's leasing of 700 South Riverside Drive beginning as of June 7, 2002.

Confidential and Privileged Analysis and Assessment Accomplished by Counsel for Respondent in April and May of 2002 (Prior to Respondent's Leasing of 620 and 700 South Riverside Drive Effective as of June 7, 2002).

Respondent has located in its files confidential correspondence from May of 2002 (prior to Respondent's first leasing of 620 and 700 South Riverside Drive effective as of June 7, 2002) that were generated by counsel and/or under direction of counsel to analyze and assess legal and environmental issues potentially pertinent to Respondent's proposed leasing of 620 and 700 South Riverside Drive. As such, those documents are privileged attorney/client communications and/or reflect attorney work product. Accordingly, Respondent has not provided copies of those documents with this response. Respondent submits this response while reserving the confidentiality of all communications subject to attorney/client privilege, work product protection, and/or any other protection from disclosure, and this response should not be construed in any way as a waiver of Respondent's claims to such confidentiality. In any event, Respondent believes that Respondent's July 3, 2008 Response to EPA's First Information Request and this response to EPA's Supplemental Information Request provide all factual information responsive to EPA's 104(e) requests that is contained in such confidential and privileged materials, including the following information regarding conditions and circumstances at 620 and 700 South Riverside Drive reported as of April 28, 2002 (prior to Respondent's first leasing of 620 and 700 South Riverside Drive effective as of June 7, 2002)(note that Respondent lacks knowledge or information to verify the following information at this time). As of April 28, 2002:

620 South Riverside Drive was used for dry material storage such as shoring, piling, and treated wood for marine construction. The wood had been treated with both creosote and arsenate compounds. 700 South Riverside Drive included a two-story office building; a maintenance shop adjoining the office building, a shed for storage of oil products and waste oil, and a small office/meeting room accessed by stairs adjacent to the oil storage shed. Several small, older buildings formerly located in the southeast portion of the 700 South Riverside Drive property were removed in 2001. The 620 and 700 South Riverside Drive properties were the headquarters for construction activities performed at offsite locations. Those construction activities included installation of underground foundation

piling on land, and marine construction including dredging, retaining walls, bridges, shoring docks, and sheet piling. Both 620 and 700 South Riverside Drive had docks on the Lower Duwamish Waterway for various vessels used in construction activities. The properties were leased by Hurlen Construction Company from Harald Hurlen. A small area was leased from the City of Seattle just west of the office building for vehicle parking and storage.

Hurlen Construction Company owned a variety of vessels and heavy equipment that were normally used at offsite project locations. Those items included four barges mounted with cranes, four flat-decked barges, a tugboat, one truck crane, one drill rig mounted on a tracked vehicle, six crawler cranes, pile driving hammers, augers and associated motors, pick-up trucks, boom trucks, and welding equipment. No major maintenance of vehicles or equipment took place at 620 or 700 South Riverside Drive. Major equipment repairs and vehicle servicing were performed off the properties. Small welding jobs and repairs on small equipment were conducted at the site in the maintenance shop, and in a small adjacent covered area. There was a loft in the maintenance shop used for the storage of miscellaneous parts and small equipment. No parts degreasers were observed. The office building was used for administrative work. The major materials used and stored at 700 South Riverside Drive included motor oil, diesel, lubricants, and small containers of fuels.

At 700 South Riverside Drive there were four above-ground storage tanks within secondary containment in the oil-storage shed: three 250-gallon new oil tanks and one 500-gallon waste oil tank. Drums of petroleum products and a 500-gallon aboveground diesel tank were on a paved area without secondary containment. That area had been paved recently. Some staining was noted in that paved area and on the concrete floor inside the oil storage shed. There was a sump in the center of the concrete shed floor for any liquid releases, and captured liquids were pumped out of the sump for proper disposal. The shed had a ramped entrance and perimeter curbing that provided secondary containment for any releases in the shed area.

Miscellaneous equipment and tools were stored in the yard area at 700 South Riverside Drive, primarily in large shipping containers stacked along the western boundary. Equipment included several portable air compressors, a portable water tank, tires, augers, scaffolding, and related equipment. Timbers for marine construction and a scrap metal dumpster and wood recycling were located outside the southern property fence along South Riverside Drive.

The operations did not store or use any hazardous substances at 620 or 700 South Riverside Drive in quantities sufficient to trigger reporting requirements. The operations did not generate hazardous waste, but apparently had an EPA hazardous waste identification number (WAS988518239). Nonhazardous waste included oil filters, absorbent materials, anti-freeze, and waste oil. The oil-containing waste materials were removed from the properties by FBN Enterprises of Renton, Washington. Occasionally, waste oil had been removed from barges and the tugboat, as arranged by Basin Oil. Wood wastes and concrete were removed from the properties by All Wood Recycling of

Seattle, Washington. Scrap metal materials were recycled by Seattle Iron and Metals of Seattle, Washington. General trash and office wastes were stored in a dumpster/trailer and removed for disposal by Waste Management of Seattle, Washington.

There were no underground storage tanks at 620 or 700 South Riverside Drive. It was reported that the property owner (Harald Hurlen) had removed an underground fuel tank from the 700 South Riverside Drive parcel in 1993 or 1994. A database search identified 700 South Riverside Drive as having an underground tank for leaded gasoline that was installed in February 1980. The database indicated that the tank had a release identified in April 1993, the surrounding soil was impacted, and cleanup was started in June 1995. The parcel was reported as "cleaned up" as of December 6, 2000. The online version of the Washington Department of Ecology LUST database included that information and also indicated that only soil was affected by the release.

No process wastewater was generated at 620 or 700 South Riverside Drive. Potable water and municipal sewer service was provided by the City of Seattle. Sanitary wastewater was discharged to the City of Seattle municipal wastewater system. It was reported that there had never been any water supply wells at the properties.

Storm water runoff from the small paved area near the 700 South Riverside Drive buildings and from the unpaved portion of the yard either infiltrated into the soil or flowed to a storm drain in the middle of 700 South Riverside Drive that emptied to the Lower Duwamish Waterway. Storm water at 620 South Riverside Drive appeared to generally infiltrate into the soil.

Fluorescent light ballasts were located within the office building, maintenance shop, and meeting room/office at 700 South Riverside Drive.

There were no regulated sources of air emissions at 620 or 700 South Riverside Drive. The buildings were heated by natural gas and cooled by small electric-powered air conditioning units.

Environmental compliance and prevention programs at 620 and 700 South Riverside Drive were managed by Scott McKellar. In general, housekeeping practices were observed to be adequate. The storage areas at 700 South Riverside Drive appeared to be somewhat unkempt and in a continual state of flux, primarily due to the continual transfer of equipment to and from project sites. Work areas in the maintenance shop were relatively clean. The storage of large construction items at 620 South Riverside Drive was well organized. It was reported that there was a major clean up of the yard area in approximately 1996, and that in 2001 activities included the demolition of several old buildings, paving of the area immediately outside the oil storage shed and maintenance shop, and installation of a security fence around 700 South Riverside Drive.

**3. Compliance with This Request.** Describe all sources reviewed or consulted in responding to this request, including, but not limited to:

- a. the name and current job title of all individuals consulted.

Response: The following individuals were consulted in preparing Respondent's July 3, 2008 104(e) Response, which was relied upon (in part) to respond to this supplemental request: Clyde Joseph (formerly Vice President and General Manager of Respondent); Frank Scott (formerly Safety Manager of Respondent); Juan Garcia (formerly Master Mechanic of Respondent); Heidi Sannes (formerly Office Assistant of Respondent); Herman Koempel (formerly Controller of Respondent); Victoria Aguilar (formerly Vice President of Human Resources and Legal Affairs of American Civil Constructors, Inc.); Cassandra Grant (Assistant Secretary of American Civil Constructors, Inc.); Jeff Puls (Treasurer of American Civil Constructors, Inc.); and Robert F. Bakemeier (counsel for Respondent). In addition, the following individuals were consulted in preparing this response: Dave Lemesany (Vice President and General Manager of Respondent); Ed Thornton (Project Manager for Respondent); Frank Blakely (Yard Supervisor for Respondent); Melissa Eakman (Project Cost Analyst for Respondent); Jeremy Walliman (Project Engineer for Respondent); Susan Thornton (Accounts Payable/Payroll for Respondent); Heather Bartlett (Principal Engineer, SLR International Corporation, consultant to Respondent); Alisa Sechler (SLR International Corporation, consultant to Respondent); and Robert F. Bakemeier (counsel for Respondent).

- b. the location where all documents reviewed are currently kept.

Response: Documents in the possession, custody, and control of Respondent and of American Civil Constructors, Inc. are currently kept at 700 South Riverside Drive, Seattle, Washington, and at 1601 West Bellevue, Littleton, Colorado.

#### **LIST OF ATTACHMENTS TO RESPONDENT'S JULY 3, 2008 RESPONSE TO EPA'S FIRST INFORMATION REQUEST:<sup>1</sup>**

**Attachment 1**—Lease for 700 South Riverside Drive and 620 South Riverside Drive.

**Attachment 2**—Inventory List of Materials.

**Attachment 3**—Quarterly Hazardous Materials Control Reports.

**Attachment 4**—Documents re April 23, 2008 Diesel Fuel Spill.

**Attachment 5**—Email Exchange, June of 2003, re Dredging in Approximately September of 1998.

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<sup>1</sup> Attachments 1 through 8 are not attached to this response to EPA's Supplemental Information Request. Respondent's July 3, 2008 Response to EPA's First Information Request also included Attachments A, B, and C, containing confidential business information (tax returns, financial statements, and insurance policies).



**Attachment 6**—Bills of Lading for Waste Disposal and Related Documents (Examples).

**Attachment 7**—Invoices, Invoice Summary Reports, and Weight Tickets for Waste Disposal (Examples).

**Attachment 8**—Pollution prevention plan.

**LIST OF ATTACHMENTS TO THIS RESPONSE TO EPA'S SUPPLEMENTAL INFORMATION REQUEST:**

**Attachment 9**—Asset Purchase Agreement.

**Attachment 10**—Fall 2009 Inventory of Wastes at 700 South Riverside Drive for Off-Site Disposal by Emerald Services, Inc. (Related Correspondence, Manifests, RCRA Site Identification Number, etc.).

**Attachment 11**—Quarterly Hazardous Materials Control Reports.

**Attachment 12**—Oil Inventory at 700 South Riverside Drive.

**Attachment 13**—Material Safety Data Sheets.

**Attachment 14**—Seattle Fire Department Permits.

**Attachment 15**—Sampling Report from Concrete Materials Generated by the United States of America from the Puget Sound Naval Shipyard.

**Attachment 16**—Pollution Prevention and Best Management Practices Plan.

**Attachment 17**—Correspondence dated November 3, 1998 regarding previously removed underground storage tanks.

**Attachment 18**—Spill Prevention, Control and Countermeasure (SPCC) Plan.

**Attachment 19**—Inventory of Marine Equipment.

**Attachment 20**—Correspondence between Respondent and Lessor of 700 South Riverside Drive (Harald L. Hurlen).

**Attachment 21**—Correspondence, invoices, and photographs regarding regrading/regraveling of the yard located at 700 South Riverside Drive in September of 2009.

**Attachment 22**—Correspondence dated May 21, 2002, regarding "Pollution Plan" for Hurlen Construction Company.

**Attachment 23**—Correspondence dated January 15, 2002, regarding trimming of poplars at 700 South Riverside Drive.

## DECLARATION

I declare under penalty of perjury that I am authorized to respond on behalf of Respondent American Civil Constructors West Coast, Inc., and that the foregoing response by Respondent to EPA's Supplemental CERCLA Section 104(e) information request regarding the Lower Duwamish Waterway Superfund Site is complete, true, and correct, subject to the clarification provided in the General Introduction to this response, above.

Executed on January 29, 2010.



Signature

David L. Lemesany  
Vice President and General Manager  
American Civil Constructors West Coast, Inc.  
700 South Riverside Drive  
Seattle, Washington 98108